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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/046,589 | 10/29/2001 | Michael H. Lenzmeier | TC341 | 4167 |
| 7590 | 10/06/2003 | | EXAMINER | |
| John F. Klos Fulbright & Jaworski L.L.P. 225 South Sixth Street #4850 Minneapolis, MN 55402-4320 | | | TILL, TERENCE R | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1744 | |

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/046,589 | LENZMEIER ET AL. |
| | Examiner Terrence R. Till | Art Unit 1744 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
 THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-49 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
 5) Claim(s) 5-10 and 29-44 is/are allowed.
 6) Claim(s) 1-3,11,14,15,19-23,25-28 and 45-49 is/are rejected.
 7) Claim(s) 4,12,13,16-18 and 24 is/are objected to.
 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 11) The proposed drawing correction filed on ____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1.) Certified copies of the priority documents have been received.
 2.) Certified copies of the priority documents have been received in Application No. ____.
 3.) Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) The translation of the foreign language provisional application has been received.
 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>46</u> . | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 11, 14, 15, 19-22, 25-28, 47 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Hommes.
3. The patent to Hommes discloses a head assembly 1 having a main chamber 5 having an outlet 41, an air knife nozzle 12,13, a manifold 10 in communication with the nozzle, with one end of the manifold including an input portion 15 to receive pressurized air. Hommes also discloses a first front skirt 44 positioned adjacent to and substantially coextensive with the main chamber, the first front skirt selectively movable between a first position and a second position. Hommes additionally discloses a debris receptacle 100 and a debris conveyor 30 operatively connected with the head. Additionally, Hommes discloses a second front skirt 45 adjacent and in spaced relation to the first front skirt as well as two rear skirts 42 and two side skirts 43. With respect to claim 48, the scavenger strip positioned adjacent and extending forwardly from the first rear skirt is considered to be the second skirt 42.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 23, 45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hommes in view of Jajko et al.

8. The patent to Hommes discloses all the recited subject matter except a barrier positioned inwardly from one side of the chamber. The patent to Jajko et al. discloses a head assembly similar to that of Hommes and further includes a barrier 32 positioned inwardly from one side of the chamber to define a recovery chamber. It would have been obvious to a person skilled in the art at the time the invention was made to provide a barrier to the device of Hommes in view of

the teaching to Jajko et al. in order to more effectively remove all the dirt and debris (see Jajko et al., column 2; lines 1-10)

Allowable Subject Matter

9. Claims 5-10 and 29-44 are allowed.
10. Claims 4, 12, 13, 18 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
11. The following is an examiner's statement of reasons for allowance: with respect to claim 5, the prior art does not disclose nor render obvious the claimed combination of subject matter, particularly the main chamber having a curvilinear interior surface. With respect to claim 29, the prior art does not disclose nor render obvious the claimed combination of subject matter, particularly a first partition and a second partition, the partitions defining a first bin and a second bin, and a third bin. The first bin having a debris inlet port, the second bin in communication with the first bin, the second bin including a separator having an intake aperture, a debris aperture and an exhaust. The exhaust is in communication with a debris conveyor. The third bin including a bypass port for receiving an air stream from a bypass conduit. With respect to claim 35, the prior art does not disclose nor render obvious the claimed combination of subject matter, particularly the first and second bins having adjacent discharge openings which are accessible through a movable panel. With respect to claim 39, the prior art does not disclose nor render obvious the claimed combination of subject matter, particularly the steps of conveying the air

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from a first bin to a second bin, separating some of the remaining debris from the air stream and a conveying the air stream back to the vortex.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

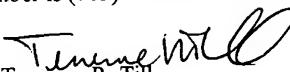
Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Dickson, Tate, Oeberg et al., Tanase, Bowers, Young et al., German patent to Berger, Russian publication to Bobrov and Russian publication to Kovalev show the current state of the art in road sweeping apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrence R. Till whose telephone number is (703) 308-1592. The examiner can normally be reached on Mon. through Thurs. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on (703) 308-2920. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


Terrence R. Till
Primary Examiner
Art Unit 1744

trt

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